

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior revisions, and listings, of claims in the application.

Listing of Claims:

1. (Original) A metabolic rate measuring apparatus comprising means to measure a reference metabolic rate of a user from at least one breath of the user, means to measure metabolic rate from a subsequent breath of a user, means to indicate a deviation from the reference rate in a breath and prevent measuring of subsequent breaths, and means for a user to override the measurement prevention means to enable measurement of metabolic rate from breaths which deviate from the reference rate.
2. (Original) An apparatus as claimed in Claim 1 wherein the means to measure a reference metabolic rate comprises an oxygen sensor and/or a carbon dioxide sensor, operatively connected to an electronic calculation means.
3. (Original) An apparatus as claimed in Claim 2 wherein the oxygen sensor and/or carbon dioxide sensor is connected to a flow meter to measure the volume of inhaled and/or exhaled breaths.
4. (Currently Amended) An apparatus as claimed in ~~any one of Claims 1 to 3~~ Claim 1 wherein the means to measure a reference metabolic rate is connected to a data storage means, arranged in use to store the reference metabolic rate data.

5. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to measure the reference metabolic rate is the same as the means to measure metabolic rate from the subsequent breath of a user.
6. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to measure the reference metabolic rate comprises means to measure a reference range of metabolic rates.
7. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the reference metabolic rate is measured as an average from a plurality of breaths.
8. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to indicate a deviation from the reference metabolic rate comprises a visual indicator selected from a display screen, an LED, a text display, a numeric display, a warning light or any mixture thereof.
9. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to prevent measurement of subsequent breaths when a deviation from the reference metabolic rate is detected, comprises means to prevent operation of the means to measure subsequent breaths.
10. (Original) An apparatus as claimed in Claim 9 wherein the measurement prevention means effects non-recordal of subsequent breaths, until a breath is measured which substantially corresponds to the reference metabolic rate.

11. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to prevent measurement of subsequent breaths effects de-activation of the means to measure subsequent breaths.
12. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 9 when dependent on Claim 2, wherein the means to record subsequent breaths comprises an oxygen sensor and/or a carbon dioxide sensor which is de-activated by the measurement prevention means.
13. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to override the measurement prevention means comprises means to enable operation of the means to record subsequent breaths.
14. (Currently Amended) An apparatus as claimed in ~~any preceding claim~~ Claim 1 wherein the means to override the measurement prevention means comprises an actuator, operable by a user, which de-activates the measurement prevention means when operated by a user.